

Exhibit 5

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 2 FOR THE COUNTY OF LOS ANGELES
 3 DEPARTMENT CCW-308 HON. ANN I. JONES, JUDGE
 4

COORDINATION PROCEEDING SPECIAL)
 5 TITLE (RULE 3.550))
)

6 USPLABS DIETARY SUPPLEMENT)
 CASES.)
 7

RELATES TO:)
)

8 DOMINIC LITTLE, ET AL.,) CASE NO. JCCP4808
)

10 PLAINTIFFS,)
)

11 VS.)
)

12 USPLABS, LLC, ET AL.,)
)

13 DEFENDANTS.)
)

14 REPORTER'S TRANSCRIPT OF PROCEEDINGS
 WEDNESDAY, APRIL 26, 2017

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1 CASE NUMBER: JCCP 4808
2 CASE NAME: USPLABS DIETARY SUPPLEMENT CASES
3 LOS ANGELES, CA WEDNESDAY, APRIL 26, 2017
4 DEPARTMENT 308 HON. ANN I. JONES, JUDGE
5 TIME: 1:45 P.M.
6 REPORTER: TIMOTHY J. McCOY, CSR NO. 4745
7 APPEARANCES: (AS HERETOFORE NOTED)

8 * * *

9
10 THE COURTROOM ASSISTANT: Please come to order.
11 Department 308 is now in session.

12 THE COURT: Thank you everyone.

13 We're on the record in the Coordinated Proceedings
14 with regards to the USPLabs Dietary Supplement Case.

15 If I could ask counsel here in court to make their
16 appearances for the record.

17 MR. HIGGINS: Good afternoon, your Honor. Sean Higgins
18 for the plaintiffs.

19 THE COURT: Thank you.

20 MS. EISENBERG: And Cara Eisenberg for plaintiff Thomas
21 Park.

22 THE COURT: Thank you.

23 MR. SIKO: Good afternoon. Robert Siko for the
24 plaintiffs.

25 MS. TAYLOR: Good afternoon, your Honor. Brett Taylor
26 on behalf of defendants USPLabs LLC, GNC Corporation,
27 The Vitamin Shoppe, Inc., The Vitamin Shoppe, Bally
28 Total Fitness Corporation, Vitamin World, Inc., Rite Aid

1 Corporation, and specially-appearing defendants USPLabs
2 Jack3d LLC, Oxyelite PN LLC, USPLabs Oxyelite LLC, USPLabs
3 Holdings LLC, Jonathan Vincent Doyle and Jacob Geissler.

4 MS. ALDERFER: Good afternoon, your Honor. Amy
5 Alderfer, Cozen O'Connor, for those same defendants as
6 Ms. Taylor.

7 THE COURT: Thank you.

8 MS. STRICKLIN: Katie Stricklin appearing on behalf of
9 Vitatech Nutritional Sciences, Inc.

10 MR. GREELY: Good afternoon, your Honor. Adam Greely,
11 co-counsel for SK Laboratories.

12 THE COURT: Thank you.

13 MR. GETTY: Good afternoon, your Honor. Bill Getty on
14 behalf of defendant Max Muscle Marketing.

15 THE COURT: Thank you.

16 Do you want to make an appearance or are you just
17 visiting?

18 MR. THORNTON: Yes, I do. John Thornton, appearing for
19 the plaintiffs.

20 THE COURT: Thank you.

21 Okay. Let's begin with the easy one, which is --

22 THE CLERK: We also have CourtCall, your Honor.

23 THE COURT: Oh, I'm sorry.

24 On Courtcall, I apologize, Mr. Marshall, are you on
25 the phone for SK Labs?

26 MR. MARSHALL: Good afternoon, your Honor. Yes, Matthew
27 Marshall for SK Laboratories.

28 THE COURT: And there's someone on the phone for Max

1 Muscle?

2 MS. AMIRPOUR: Yes. Rebecca Amirpour for Brent Kemp
3 dba Max Muscle Pasadena.

4 THE COURT: Is there anybody else on the phone whose
5 name I haven't called?

6 All right. Thank you. Everyone please be seated.
7 Let's deal with the easy one first, which is the unopposed
8 petition to establish a qualified settlement fund.

9 MR. HIGGINS: Yes, your Honor.

10 THE COURT: Anyone want to be heard on that one? I'm
11 hoping everyone's happy.

12 MR. HIGGINS: I think we'll submit, your Honor.

13 THE COURT: Okay. I have a proposed order which I can
14 sign here today.

15 MR. HIGGINS: Okay. Perfect.

16 THE COURT: Okay. So I'm going to put that to the side
17 and deal with the harder issue.

18 Has everyone had an the opportunity to read my
19 tentative with regards to the motion for trial preference?

20 MR. THORNTON: I have.

21 THE COURT: Do you want a second or two? You just
22 walked into the room.

23 MR. THORNTON: I understand the essence of it, yes,
24 your Honor.

25 THE COURT: My thinking is that, as I sit here today,
26 I have all of the concerns that I've always had with
27 regards to the pendency of the criminal proceeding. What
28 is changing is my confidence that it will be resolved in our

1 lifetime. But I'm not there yet. I'm growing skeptical,
2 but I'm not ready to give up the ghost on it.

3 And I guess what I'd like to do, frankly, is deny
4 this without prejudice, have a status conference in October
5 when this criminal case is set to go to trial, see where we
6 are with a much more thorough explication of the status of
7 the criminal case and the likelihood that the case will be
8 tried in my lifetime, and then we'll look at this again.

9 I guess what I'm trying to say is it still has
10 the same problems with regards to the threshold findings.
11 But at a minimum, knowing that, could we have a do-over
12 next January when we're no closer to trial than we are
13 today.

14 So that's my thinking kind of behind the tentative.
15 It's the tentative plus, which is, there are facial problems
16 with this motion that arguably could be cured but the
17 countervailing issues remain, and I remain cautiously
18 optimistic that the criminal trial will proceed with some
19 deliberate speed.

20 Yes.

21 MS. ALDERFER: And your Honor, I do want to make you
22 aware that the criminal trial now is set for January 29th,
23 2018. It was continued really by the court so that the
24 court could have adequate time for the Daubert motions.
25 But I can tell you that the Government's expert disclosures
26 are set for I believe it's May 1st. So next week. So
27 the ball is rolling forward.

28 THE COURT: And it is not a run-of-the-mill federal

1 criminal prosecution, so I understand that, in the absence
2 of very early disposition, it was going to take a little
3 bit of time.

4 That being said, I would hope it would be sooner
5 rather than later, frankly. And perhaps October's too soon.
6 Maybe it's late January.

7 But I kind of want to see if that's actually
8 happening. Because at some point the rationale for
9 a never-ending criminal prosecution gets thinner.

10 MS. ALDERFER: Right. We definitely understand the
11 Court's concern. I mean, we'd be agreeable to coming back
12 in October, and I'd be agreeable to providing you, if you'd
13 prefer, a status report in writing in October with a hearing
14 date in January, whatever the Court's preference is.

15 THE COURT: Now, with regards to the Daubert motions,
16 because obviously that's going to be critical to the
17 ability of the Government to prosecute the case, what's
18 the scheduling?

19 MS. ALDERFER: And I have a copy, your Honor, of the
20 court's order resetting trial, if you'd like a copy.

21 THE COURT: I would. That would be very helpful.
22 thank you.

23 MS. ALDERFER: If I could pass that through to your
24 clerk.

25 Your Honor, it's on Page 4 of 4, which is where
26 you would see the schedule. And it's in bold, just about
27 a third of the way down the page.

28 MR. THORNTON: May I address Counsel just for a moment,

1 your Honor?

2 THE COURT: Uh-huh.

3 (Sotto voce discussion between counsel)

4 THE COURT: Of all the things that are unsaid here,
5 it's the hearing on the Daubert motions. Lots of briefing,
6 lots of deadlines. I'm just not seeing that the court's
7 going to deal with it.

8 MS. ALDERFER: Well, it has set the date for trial.
9 If your Honor would like, I'd be happy to try to inquire
10 If there has been a hearing date set. I suspect perhaps
11 one has not been set yet.

12 THE COURT: That's my guess, too.

13 MS. ALDERFER: But if you'd like, I'm happy to try to
14 find that out for you.

15 THE COURT: Well, here is my -- well, I have a couple
16 of concerns, which is somewhat exacerbated by this schedule
17 and sort of separate and apart from the preference motion.

18 Obviously the interest that's competing with the
19 preference motion is the same interest that's competing
20 with getting this case underway, which is, frankly, the
21 constitutional right not to have to testify against yourself
22 and to not have any of the adverse inferences otherwise
23 drawn in light of the assertion of that privilege. That
24 is a sensible balancing for a period of time. It makes
25 less sense two years later. And this is two years later
26 without really, frankly, I think a reasonable prospect
27 of going forward in January.

28 MS. ALDERFER: Well, your Honor --

1 THE COURT: I mean, how do I prosecute a case, how
2 do I pick a jury if the Government doesn't know if their
3 scientists are coming in?

4 MS. ALDERFER: I think one option, which you
5 telegraphed, is to have us come back in the fall and we can
6 tell you then what is happening with the criminal case, has
7 there already been a hearing on the Daubert motions, what
8 is the status. It may be, yes, the case is moving forward
9 and will be tried at the end of January, and you'll have
10 that assurance.

11 THE COURT: Well, and maybe there's a hearing date in
12 the original criminal trial scheduling order which this
13 refers to, which I don't have. Maybe there's a --

14 MR. HIGGINS: Your Honor, if I may? I think I have
15 more direct communications with some of the parties in
16 the criminal trials. It's my understanding they don't
17 necessarily agree on the extent of and whether the --
18 and the timing of Daubert hearing. So there has not been
19 a hearing set at all. And they don't even agree on the --

20 THE COURT: No, they have a briefing schedule.

21 MR. HIGGINS: Right. But they don't even agree on
22 whether the court's going to have Daubert hearings and how
23 he's going to have them and when. So that remains a source
24 of conflict in the criminal proceedings.

25 THE COURT: Well, what I don't want to do, frankly -- I
26 mean, here is the scenario I'm trying to avoid. We run out
27 of patience because Judge Lindsay just is not proceeding
28 with all the deliberate speed on the criminal prosecution,

1 we start discovery and then we get testimony, then we have
2 the criminal trial, whatever happens in the criminal trial
3 happens in the criminal trial, but we're still working on
4 discovery. So then we go back and redo all the discovery
5 now that the criminal trial no longer places into jeopardy
6 and the assertion no longer -- I mean, it's just incredibly
7 inefficient.

8 If everything would stay fixed in the universe
9 forever, then that's one thing. But the honest truth
10 is you'll end up doing everything twice. Which would be
11 incredibly inefficient.

12 Let's say he doesn't go in January but he goes
13 in April. This case isn't going to be ready for trial in
14 April of 2018. So then all of a sudden there's a conviction
15 of some and acquittal of others and now we're redoing
16 depositions and we're doing interrogatory responses and
17 we're doing discovery because earlier assertions of
18 privilege now will not pertain. And so it's just
19 inefficient, to say the least.

20 And what I don't want to have happen is for a
21 criminal defendant to be forced to the election of having
22 to testify or to, frankly, have a negative inference if we
23 are literally within six months of having a criminal trial
24 or eight months of having a criminal trial. So that's my
25 debate.

26 But I am running out of patience. I'll share
27 that with you.

28 MS. ALDERFER: Well, I mean, we would beg your

1 indulgence for a another short continuance, then, till the
2 fall, to hopefully have, you know, a clearer idea at that
3 point of what is happening with the criminal trial.

4 Again, at this point in time this was done, you
5 know, with the direction of the court, and so I have no
6 reason to think the court would have set a January 29th,
7 2018 trial date if he didn't believe it could be delivered.
8 And, you know, I would ask that the Court give Judge Lindsay
9 the benefit of that doubt and have us come back in the fall
10 and we can revisit where we're at.

11 THE COURT: Well, in all fairness, and I don't mean to
12 be at all critical, but in all fairness to Judge Lindsay,
13 he's looking at a very complicated, unusual criminal
14 prosecution that took place over the course of six years.
15 It's deemed complex.

16 He has in here "The court will schedule a pretrial
17 conference by a separate order." Do you know whether he's
18 done that? Because that obviously would be the opportunity
19 to hear the Daubert motions.

20 MS. ALDERFER: Ms. Taylor is indicating she has looked
21 at the docket and that we haven't seen that on the docket
22 yet.

23 THE COURT: Okay.

24 MS. ALDERFER: Is that correct?

25 MS. TAYLOR: That's correct.

26 MS. ALDERFER: Now, if your Honor would like, I'm
27 happy to provide you -- you know, we'll continue to monitor
28 the docket, and if that schedule, if that order becomes

1 available, to lodge it with your Honor if you'd like.

2 THE COURT: Yeah, I mean, I don't have access to PACER.

3 Here is what I'm thinking. The issue with regards
4 to Daubert challenges will be fully briefed by August. If
5 we're looking at a fall hearing on those issues, that would
6 be profoundly influential on the Government's prosecution.
7 I can't imagine you're going to get beyond a reasonable
8 doubt without your scientists suggesting that there's
9 something wrong with the supplements. So at a minimum I
10 think we should --

11 MR. HIGGINS: Your Honor, if I may?

12 THE COURT: Yeah.

13 MR. HIGGINS: Let me address that point and a couple
14 others. The first is, only one of the charges actually
15 addresses the dangerousness of the products. The others
16 are money laundering and fraud charges that aren't going
17 to be influenced by the Daubert decision.

18 And then stepping back, a couple of points I wanted
19 to make. First is, the last time the criminal trial was
20 continued the judge said no more continuances, and now we're
21 three or four in. And then the question is, even if it goes
22 in January --

23 THE COURT: No, I think we're like three in, aren't we?

24 MR. HIGGINS: We're three in.

25 THE COURT: Yeah.

26 MR. HIGGINS: We're three in.

27 Even if it goes in January, are they going to
28 let us -- let's say they're convicted. Are they going

1 to let us proceed despite pending appeals? There's a
2 whole post-trial series of procedures.

3 THE COURT: Yeah, we can, but then you worry about
4 whether or not that's a legitimate assertion. But I
5 digress.

6 If all you have are unrelated offenses that have
7 nothing to do with the efficacy or contents or composition
8 of the supplements, that all that's left in this criminal
9 prosecution is you didn't do your tax returns correctly or
10 you didn't report this income or, you know, wire fraud for
11 unrelated transactions, talk to me about whether the stay
12 remains in place.

13 The reason there is a stay in place is that
14 the subject matter of the criminal prosecution overlaps
15 with the subject matter of the civil proceeding.

16 If I have just a guy who's there because he
17 didn't file his tax returns or whatever that's really very
18 tangentially related to the issues presented in this civil
19 case, I have many fewer concerns about the implications on
20 his ability to fully and adequately defend himself. But
21 that's not where we are today.

22 MR. HIGGINS: The last point I would make, your Honor,
23 is you didn't get the case brand new. This case is already
24 in its now fifth year. I really think the Book trial can
25 be -- and Mr. Thornton can address the specifics of the
26 preference motion, but that trial can be ready by April.
27 All of the liability discovery is done and --

28 THE COURT: I know I didn't get this case new, but

1 the criminal proceeding isn't that old, and that really
2 derails -- and not only derailed this case but derails any
3 case in which there is now a criminal prosecution pending
4 in a relatively complex criminal proceeding.

5 That being said, it's a balancing. So for some
6 period of time I am willing to let the criminal process
7 proceed without jeopardy to true fact-finding in the civil
8 case. Fact-finding doesn't happen in civil cases when there
9 are criminal charges pending. People take the Fifth, you
10 never hear what happened, and, frankly, there's a negative
11 inference drawn. That's really not getting to the bottom
12 of what happened. That's really not what we're about here.
13 We're really here to discover the facts underlying the civil
14 case.

15 And so, I am willing in a search for the truth to
16 allow some time to elapse so that these witnesses can appear
17 and testify without any criminal implications and without
18 the assertion of privilege being valid. And my recollection
19 is that upon conviction, we are there regardless of
20 the status of appeals. But I'd have to go back and
21 refamiliarize myself with my Fifth Amendment privilege law.

22 But in any event, I would certainly be less
23 sympathetic to a need for continuance for an appeal in
24 the criminal conviction.

25 And then once they are convicted or once they are
26 acquitted -- once they are acquitted there is no appeal,
27 and once they are convicted the rationale for the Fifth
28 Amendment disappears.

1 MS. EISENBERG: Your Honor, if I might?

2 THE COURT: Yeah.

3 MS. EISENBERG: You indicated you want to see it
4 tried within your lifetime, but I think it's within some
5 of these plaintiffs' lifetime is maybe the issue. But --

6 THE COURT: I actually did not find that to be
7 established for the purposes of this motion.

8 MS. EISENBERG: But broader than that, most of the
9 discovery -- I've had cases that have that concern where
10 the Fifth is being waived prior to trial. That's sort of
11 like this case. Most of the fact discovery has been done.
12 Even if these criminal witnesses came to trial that had
13 to take the Fifth Amendment, that's already been waived
14 because the factual depositions have already been taken.

15 THE COURT: Right. But --

16 MS. EISENBERG: So who would be bringing the Fifth?
17 I mean, I understand the Court's concerns.

18 THE COURT: The person who's sitting on the witness
19 stand who was subpoenaed to testify. The person who is
20 critical to an understanding by any fact-finder of in
21 fact what happened in this case. It would be so highly
22 prejudicial, it would be a deprivation of due process
23 to the defense to have that kind of trial.

24 MS. EISENBERG: That's all true, but --

25 THE COURT: So that's why I don't want to have it. I
26 don't want to deprive the defendants of their due process
27 rights.

28 While we have an active criminal prosecution going

1 on, if it appears to me that this case is forever stalled
2 and no one has any interest in trying the case, talk to me.
3 But that witness will be called to testify for the mere
4 theater of asking him to take the Fifth.

5 MS. EISENBERG: Well, no. I mean, I understand
6 completely, your Honor, but where the discovery has been
7 obtained already and the deposition testimony, and there
8 has been no Fifth Amendment, that's waived. That's deemed
9 waived for that subject.

10 So normally the fact pattern is we that haven't
11 engaged in discovery and we wait. But we have in this case.

12 THE COURT: I know. I understand the problem. So when
13 you subpoena Mr. -- he's under indictment. Give me a name.

14 MR. HIGGINS: The CEO, Jacob Geissler.

15 MS. ALDERFER: Mr. Geissler.

16 THE COURT: Okay. So Mr. Geissler's subpoenaed.

17 MS. EISENBERG: And his deposition's been taken. So
18 as to the --

19 THE COURT: He's subpoenaed, and he's on the stand. And
20 guess what you're going to do? Ask him questions. And you
21 know what he's going to do? He's going to assert the Fifth.

22 MS. EISENBERG: Perhaps we can brief the issue. Because
23 my understanding is that as to the prior testimony, he's
24 waived that right.

25 THE COURT: But we're not asking him about his prior
26 testimony. You're asking him about his current testimony
27 as he's sitting on the stand.

28 MS. EISENBERG: Yes. But he's waived the right to

1 assert it on the stand based on the prior testimony because
2 the objection wasn't made at the time.

3 THE COURT: If you want to read a deposition on the
4 stand. But I don't think you'll want to do that. I think
5 you'll want live testimony. And as to that, anything that
6 occurred after that deposition a Fifth Amendment privilege
7 applies, and I'm not going to have that kind of theater
8 going on.

9 MS. EISENBERG: Okay.

10 THE COURT: I'm trying to get to the facts, and I want
11 a jury to have the benefit of all of the facts.

12 MS. EISENBERG: Understood.

13 THE COURT: And I don't want a witness being put in a
14 position where he either waives a constitutional right in
15 a criminal proceeding or not.

16 The good news is we have a relatively stable
17 collection of discovery. People aren't losing their
18 recollections, people aren't destroying documents, things
19 aren't disappearing off the face of the universe. This
20 is a question about when we're going to have the trial.
21 And frankly, to have a trial six months from now or eight
22 months from now is -- now, I will tell you that's really
23 the expectation, that the case goes in January. If there's
24 a further continuance, then, anybody, contact me, I'll reset
25 the status conference. Because at some point, no, we're not
26 waiting for Godot. And then we'll worry about whether or
27 not additional testimony -- whether we can proceed by way
28 of deposition and avoid the problem.

1 MS. EISENBERG: Right.

2 THE COURT: But in an ideal world I have live witnesses
3 with current recollections, where the jury can figure out
4 whether they're lying or not, and we do a real trial with
5 all of the facts presented. But that's really with the
6 expectation that this criminal diversion is resolved sooner
7 rather than later.

8 And if it gets much longer -- and I think October
9 is a fine time to make that determination, which is, we're
10 going to trial in January and nothing's changing, and the
11 pretrial motions are being set and heard and decided. Or
12 we have a plea, in which case you can contact me and I'll
13 go earlier rather than later.

14 MR. THORNTON: Your Honor, if I may just be briefly
15 heard on behalf of the interests of my clients.

16 THE COURT: Yes.

17 MR. THORNTON: I fully understand the Court's analysis.
18 I'm not quarreling with it per se. But for the Court's
19 analysis, I have known Justin Book, I have known Stan and
20 Naomi Book, I've seen this family that literally spends
21 all of their nonworking waking hours in a sincere but very
22 rundown convalescent hospital. The change in this family's
23 life by being able to bring their son home is a dramatic
24 one. And so I simply say that when we do balance these
25 equities, that we be given an opportunity.

26 I've had a case involving a dietary supplement,
27 metabolite, in which it took four years for the criminal
28 proceedings to conclude.

1 THE COURT: It is not my intention to wait that long.

2 I will underscore a couple of things. One,
3 this is without prejudice to not only this plaintiff, but
4 actually what I want the parties to do -- and I am assuming
5 that the case goes forward in January and is concluded
6 by what? April the criminal trial will be over?

7 MS. ALDERFER: Uh-huh.

8 THE COURT: I'd like to know what or who our bellwethers
9 are, I'd like to have a game plan for getting this case to
10 trial, I want to know what additional discovery, assuming
11 there's no more Fifth Amendment privilege can be asserted,
12 what updating needs to be done, what additional evidence
13 needs to be put together.

14 Let's have a game plan. Assuming this trial goes,
15 then what. And this is a request for preference, but it may
16 or may not be in the interests of all the other plaintiffs
17 that this is our first bellwether.

18 He may be a perfect bellwether for all kinds of
19 reasons. He may be a dreadful one for other reasons. I
20 don't know. I think that's what the plaintiffs ought to
21 be thinking about.

22 And frankly, what I'd like to do in October is
23 we're either going and I can set those dates in October for
24 May. Because that criminal trial will be over. Then you
25 have real trial dates and we have a real game plan and we
26 have real bellwethers and we just keep going with what we've
27 been doing. That's why I think October is a good time.

28 And frankly, at that point, once we come in with

1 a trial plan, if the criminal trial hasn't happened, oh,
2 well, we've tried. We've waited.

3 I'm willing to give the U.S. Attorney's Office
4 two years to bring their case to trial, and after that I
5 think it's entirely reasonable to revisit my original stand.

6 So I want to do this without prejudice, because
7 this may be who you want as your bellwether, it may not be
8 who you want as your bellwether. I don't believe there's
9 a mandatory preference that I have to grant, and so, again,
10 meeting with everybody and coming up with a game plan, I'd
11 like in October for us to have a joint statement as to how
12 we're going to proceed.

13 And I'm going to assume that the trial is going in
14 late January, it will be concluded probably no later than
15 the end of April, and we will have verdicts and whatever
16 we have and then we finish up this case. And we're trying
17 this case in 2018, at least one of these cases in 2018.

18 And if you can meet and confer on selection of
19 defense bellwethers and plaintiff bellwethers, that makes
20 the most sense. And we'll set dates in 2018. Okay?

21 So I hear you. Again, this is very, very hard.
22 My real goal is to have the most complete presentation
23 of the entire story. And if I can get that with a trial
24 in January of 2018, that's terrific.

25 If we get another continuance until the middle
26 of 2018, I think we're going to go ahead and do it. And
27 then we can have an in-limine motion about whether we go
28 with what we have, whether you need any updates, we'll just

1 live with what we have, we can do it by way of deposition
2 to avoid the prejudicial effects of having a live witnesses
3 on the stand taking the Fifth, we can take it from there
4 and we'll figure out a way to try it.

5 It's not my preferred way to try it, and I'm
6 willing to give this just a tad more time to get it to
7 work, but my patience is limited at this point.

8 Do me a couple of favors. I'd like counsel to
9 meet and confer with an expectation of we're going to
10 try one if not two cases in 2018 after the criminal trial
11 is concluded, and come up with a game plan for what would
12 need to be done in terms of updating the existing discovery
13 and selection of bellwethers and whether the parties can
14 agree on their two bellwether cases or whether this is one
15 of them, I don't know.

16 So, let me give you a date in October. 11:00 on
17 October the 4th. And I'm denying the motion for trial
18 preference without prejudice.

19 I'd like the agenda for the next status conference
20 to be the selection of bellwethers, the selection of trial
21 dates in 2018 after the conclusion of the criminal case, an
22 update on the criminal proceeding, and a brief timetable by
23 both sides as to what remains to be done in order to go to
24 trial. I'm trying to let them have their criminal trial,
25 but it's not an indefinite stay.

26 MS. ALDERFER: Does your Honor want a written status
27 report ahead of the conference?

28 THE COURT: Yes, please, five court days prior. And

1 if you can't agree, just give me your respective positions.
2 Agree on what you can agree on, and what you can't agree
3 on give me your respective positions, and that will be the
4 agenda for the next status conference.

5 Yes, sir.

6 MR. HIGGINS: Just to refresh my memory, you've already
7 signed the QSF that we had submitted.

8 THE COURT: It's right here.

9 MR. HIGGINS: Oh. Perfect. Thank you.

10 THE COURT: I will sign it in a momento.

11 MR. HIGGINS: All right. Thank you.

12 THE COURT: Does that provide any resources to
13 Mr. Book's family?

14 MR. HIGGINS: Unfortunately, it does not.

15 THE COURT: Okay.

16 Okay, guys. I get the problem in the criminal
17 case, but at some point I just can't wait any longer.

18 MS. ALDERFER: Thank you, your Honor.

19 THE COURT: Thank you everyone.

20 Noticed waived?

21 COURTROOM RESPONSE: Notice waived.

22 THE COURT: I'll issue the ruling and get it signed.

23 MR. THORNTON: Thank you, your Honor.

24
25 (At 2:10 p.m., the proceedings were adjourned)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT 308 HON. ANN I. JONES, JUDGE

- - -

COORDINATION PROCEEDINGS)
SPECIAL TITLE (RULE 3.550))
USPLABS DIETARY SUPPLEMENT CASES.) JCCP NO. 4808
_____)

I, TIMOTHY J. McCOY, CSR No. 4745, Official
Reporter Pro Tempore of the Superior Court of the State of
California, for the County of Los Angeles, do hereby certify
that the foregoing pages, 1 through 20, inclusive, comprise
a full, true and correct transcript of the proceedings held
in the above-entitled matter on Wednesday, April 26, 2017.

DATED THIS 8TH DAY OF MAY 2017.

TIMOTHY J. McCOY, CSR NO. 4745
OFFICIAL REPORTER PRO TEMPORE
LOS ANGELES SUPERIOR COURT